IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 453 of 1999
WITH
CRIMINAL REVISION APPLICATION NO.454 OF 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

WANKANER MUNICIPALITY

Versus

MALKANI FAKRUDDIN DAUDBHAI

Appearance:
MR SURESH M SHAH for Petitioner
MS NEENA R AGRAWAL for Respondent No. 1
MR ND GOHIL, APP for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 27/04/2000

ORAL JUDGEMENT

1. These are two revision applications under section 397 of the Code of Criminal Procedure at the instance of Vankaner Municipality, challenging the judgement and order of the Additional Sessions Judge, Morvi, in Revision Application Nos.2/1999 and 3/1999.

2. The short and pertinent facts are to the effect that a female child was born on 18th September 1983, and her birth was registered under the relevant provisions of the Registration of Births and Deaths Act, 1969, on 19th September 1983. At the time of registration of this birth, the name of the minor child was not given, but thereafter on 13th January 1984 the father of the said child viz. Mansur Daudbhai gave her name as "Nazima", and the same was accordingly registered.

3. Thereafter the uncle of the said gild filed an application bearing No.88/98 before the learned Magistrate on 7th July 1998 for effecting the change in the name of the child in the said entry in the relevant Register from "Nazima" to "Tasneem". On dismissal of this application, father of the child filed Misc. Application No.123/98 for the same purpose. This application was also rejected albeit on the simple ground that the earlier application made by the uncle of the said child had been rejected on merits and therefore the subsequent application at the instance of the father would not survive.

4. These two orders passed by the learned Magistrate were challenged in revisions before the Sessions Court by way of Revision Application Nos.2/99 and 3/99 by the uncle and father of the child respectively. The Sessions Court came to the conclusion that the competent officer under the said Act has a right and obligation to effect a change in the name in an entry in the Register of Births and Deaths and that rejection of the applications by the learned JMFC was illegal. The Sessions Court, therefore, directed the Chief Officer of Vankaner Nagarpalika being the competent authority under the Act, to effect the change in the name of the minor child as prayed for. These orders passed in the revision applications are the subject matter of the present revision applications.

5. I have heard the learned counsel for the respective parties and perused the relevant provisions of the said Act. As a result of the hearing and discussion a consensus has been arrived at between the learned counsel on the basis of which the orders passed by the Sessions Court in Revision Application Nos.2/99 and 3/99 are quashed and set aside, only on the question of jurisdiction of the learned Magistrate i.e. in respect of criminal proceedings taken for the purpose of correcting the name in the entry. The orders passed by the learned Magistrate, to the extent the orders hold that the criminal proceedings for the said purpose are

not competent are upheld. It is clarified that the present decision as also the orders passed by the learned Magistrate are not to be construed as either conferring or limiting any right of respondent no.1 herein to obtain appropriate orders from the competent authority under the said Act, in appropriate proceedings taken under the said Act.

6. In the premises aforesaid these revision applications are allowed to the aforesaid extent and rule is made absolute accordingly. Interim relief stands vacated.

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